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UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

BLACK MOUNTAIN EQUITIES, INC.,

Plaintiff,

-against-

PACIFIC GOLD CORP.,

Defendant.

Docket No. 2:12-cv-01285-KM-CLW

DECLARATION OF  
THOMAS J. FLEMING

Motion Day:  
January 22, 2013

PACIFIC GOLD CORP.,

Counterclaim Plaintiff,

-against-

BLACK MOUNTAIN EQUITIES, INC., YA  
GLOBAL INVESTMENTS, L.P., YORKVILLE  
ADVISORS, LLC, TROY RILLO, and ADAM  
BAKER,

Counterclaim Defendants.

THOMAS J. FLEMING, declares under the penalties of perjury, pursuant to 28 U.S.C.

§ 1746 that:

1. I am a member of Olshan Frome Wolosky LLP, attorneys for plaintiff. I submit this Declaration in support of the motion of plaintiff Black Mountain Equities, Inc. ("Black Mountain") for an Order pursuant to Fed. R. Civ. P. 41(a)(2) dismissing the Complaint with

prejudice. Plaintiff seeks dismissal of its Complaint for a simple reason: The business prospects and share price of Defendant Pacific Gold Corp. ("Pacific Gold") have collapsed, with its shares closing on December 27, 2012 at \$.0002. As a result, plaintiff has concluded that further pursuit of its claims cannot be financially justified.

2. While Pacific Gold has long been a marginal startup, recent events underscore the extent of its financial decline. When plaintiff commenced this case, shares of Pacific Gold traded regularly at \$.02 per share. According to the Company's SEC Form 10-K, the aggregate market value of its common stock on March 29, 2012 was \$5,070,181 with approximately 837 million shares outstanding. Plaintiff sought to recover approximately 44 million shares, then worth approximately \$800,000. Pacific Gold's share price has plummeted more than 99% and, in recent days, it has even traded at \$.0001 per share. At this level, plaintiff would recover stock worth a mere \$4,400. Indeed, the aggregate value of the Company's common stock at the close on December 27, 2012 (\$.0002 per share) is now approximately \$420,000 with 2.1 billion shares outstanding. While plaintiff is confident of the merits of its claims, the prospects of a financial recovery, even in a successful case, are remote.

3. The collapse in Pacific Gold's share price has occurred, in large part, since the parties appeared before the Court on October 22, 2012. By that date, Pacific Gold's share price had declined to \$.0039 per share, reducing the value of any recover by plaintiff to approximately \$170,000. The share price has since plummeted to current nominal levels at which plaintiff might recover between \$5,000 and \$10,000. In the interim, Pacific Gold issued a press release announcing that production at one of its four mines had been suspended; two other mines are also not operating; and a fourth mine has been transferred to a new company, whose shares were issued as a dividend to shareholders.

4. In light of these events, the costly pursuit of claims against an insolvent entity with worthless shares makes no sense. Accordingly, plaintiff seeks dismissal of its Complaint with prejudice. Plaintiff has moved to dismiss the Counterclaims and does not oppose that the counterclaims remain pending for independent adjudication

Dated: December 27, 2012

A handwritten signature in black ink, appearing to read 'TJ Fleming', is written above a horizontal line.

THOMAS J. FLEMING